

Assembly Bill No. 1877

CHAPTER 215

An act to amend Section 3111 of the Family Code, relating to child custody.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1877, Adams. Child custody evaluations: confidentiality.

Existing law provides that in any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation, which report shall not be made available other than as specified. In addition, any information obtained from access to a juvenile court case file is confidential and shall only be disseminated as specified.

This bill would authorize the court, commencing January 1, 2010, to impose a monetary sanction for the unwarranted disclosure of a written confidential report, as specified. The bill would require that the Judicial Council, by January 1, 2010, adopt a form that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report; and adopt a rule to require that, when a court-ordered child custody evaluation report is served on the parties, the form shall be included with the report.

The people of the State of California do enact as follows:

SECTION 1. Section 3111 of the Family Code is amended to read:

3111. (a) In any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before any hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or

their attorneys, and any other counsel appointed for the child pursuant to Section 3150. The report may be considered by the court.

(b) The report shall not be made available other than as provided in subdivision (a), or as described in Section 204 of the Welfare and Institutions Code or Section 1514.5 of the Probate Code. Any information obtained from access to a juvenile court case file, as defined in subdivision (e) of Section 827 of the Welfare and Institutions Code, is confidential and shall only be disseminated as provided by paragraph (4) of subdivision (a) of Section 827 of the Welfare and Institutions Code.

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

(d) If the court determines that an unwarranted disclosure of a written confidential report has been made, the court may impose a monetary sanction against the disclosing party. The sanction shall be in an amount sufficient to deter repetition of the conduct, and may include reasonable attorney's fees, costs incurred, or both, unless the court finds that the disclosing party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. The court shall not impose a sanction pursuant to this subdivision that imposes an unreasonable financial burden on the party against whom the sanction is imposed. This subdivision shall become operative on January 1, 2010.

(e) The Judicial Council shall, by January 1, 2010, do the following:

(1) Adopt a form to be served with every child custody evaluation report that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report.

(2) Adopt a rule of court to require that, when a court-ordered child custody evaluation report is served on the parties, the form specified in paragraph (1) shall be included with the report.

(f) For purposes of this section, a disclosure is unwarranted if it is done either recklessly or maliciously, and is not in the best interests of the child.